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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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PROPOSED ACTION ON REGULATIONS

Information contained in this document is published as received from agencies and is not edited by the Office of State Publishing.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303, and 87304 of the Government Code to review proposed conflict of interest codes, will review the proposed/amended conflict of interest codes of the following:

CONFLICT OF INTEREST CODES AMENDMENT

STATE AGENCY: Office of the Inspector General

A written comment period has been established commencing on December 23, 2005, and closing on February 6, 2006. Written comments should be directed to the Fair Political Practices Commission, Attention Kevin S. Moen, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45 day comment period, the proposed conflict of interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director or the Commission will review the above-referenced conflict of interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director or the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict of interest code(s). Any written comments must be received no later than February 6,

2006. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict of interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict of interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

CONTACT

Any inquiries concerning the proposed conflict of interest code(s) should be made to Kevin S. Moen, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

AVAILABILITY OF PROPOSED CONFLICT OF INTEREST CODES

Copies of the proposed conflict of interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Kevin S. Moen, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

TITLE 2. PUBLIC EMPLOYEES' RETIREMENT SYSTEM

NOTICE OF PROPOSED REGULATORY ACTION

NOTICE IS HEREBY GIVEN that the Board of Administration (Board) of the California Public Employees' Retirement System (CalPERS) proposes to take the regulatory action described below after considering public comments, objections, or recommendations.

PROPOSED REGULATORY ACTION

In this filing, the Board proposes to amend section 575.1 entitled, "Deposit of Contributions", and section 575.2 entitled, "Deposit of Contributions Pursuant to Government Code Section 21073.1", in Title 2 of the California Code of Regulations. The proposed regulatory amendments would clarify the interest rates to be used for installment payments by members purchasing various types of service credit from CalPERS or with member contribution adjustments.

WRITTEN COMMENT PERIOD

Any interested person may submit written comments relevant to the proposed regulatory action. The written comment period closes at 5:00 pm on February 6, 2006. The Acting Regulations Coordinator must receive all written comments by the close of the comment period. Comments may be submitted via fax at (916) 795-3379; e-mail at the following address: joe_parilo@calpers.ca.gov; or mail to the following address:

Joe Parilo, Acting Regulations Coordinator
California Public Employees' Retirement System
400 Q Street, Room W2580
P.O. Box 942702
Sacramento, California 94229-2702
Telephone: (916) 795-3484

PUBLIC HEARING

Comments on the proposed actions will also be taken at a public hearing to be placed on the agenda of the regularly scheduled meeting of the Benefits and Program Administration Committee of the CalPERS Board of Administration:

March 14, 2006
9:00 a.m.
California Public Employees' Retirement System
Auditorium, 400 Q Street
Sacramento, California 95814

ACCESS TO HEARING ROOM

The hearing room will be accessible to persons with mobility impairments, and can be made accessi-

ble to persons with hearing or vision impairments upon advance request to the Acting Regulations Coordinator.

AUTHORITY AND REFERENCE

The CalPERS Board of Administration has general authority under Government Code sections 20120 and 20121 to manage and control CalPERS, make rules, and take regulatory action.

Government Code section 20750 contains authority for the Board to charge the "member interest crediting rate" for a member's election to redeposit previously withdrawn contributions pursuant to Government Code section 20178.

The Board has express authority to adopt and amend the provisions of CCR section 575.2, under the provisions of Government Code section 21073.1.

Government Code section 21073.1 also exempts this proposed regulatory amendment to CCR section 575.2 from review by the Office of Administrative Law.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Proposed Amendment to CCR Section 575.1

Government Code section 20750 authorizes CalPERS members to elect and make lump sum or installment payments to purchase qualifying service credit periods by redepositing previously withdrawn member contributions, plus interest. This section also provides that members be charged the member interest crediting rate (currently 6%, compounded annually) in effect at the time of the member's election throughout the installment payment period to purchase the service credit. The member interest crediting rate has been statutorily set at 6% since 1991, under Government Code section 20178.

With the exception of Government Code section 20750 for redeposit payments, the interest rate to be used for the other types of member service credit purchases through installment payments is not specified by law or regulation. Historically, the installment interest rate charged by CalPERS for the other types of service credit purchases has also been the member interest crediting rate in effect at the effective date of the member's election to purchase the service credit. However, the Board in March 2004 decided that service credit types calculated pursuant to section 21052, requiring the member to pay an amount "equal to the increase in employer liability", were intended to be cost neutral to the employer. This is accomplished by establishing that the installment payment interest rate charged to members be equal to the "actuarial interest rate" (currently 7.75%) that is used to calculate actuarially the benefit liability. (Using instead the 6% member interest crediting rate

would not meet the objective of cost neutrality to the employer, due to this difference in interest rates causing a gap in funding the full benefit liability.)

CCR section 575.1 implements, interprets and makes specific various conditions under which an eligible member may purchase such service credit by making installment payments to CalPERS, but does not specify the interest rate to be applied during the period of installment payments. CCR section 575.1 authorizes members to purchase such service credit subject to the existing installment payment requirements (a) through (c), which do not make any reference to "interest rate".

The proposed amendment to CCR section 575.1, by adding the proposed subsections (d), (e), and (f) would establish by regulation the installment payment interest rates which CalPERS applies to such member service credit purchases and contribution adjustments. The minor revision to other language in section 575.1 makes language more consistent in CCR sections 575.1 and 575.2. This amendment would also establish by regulation the interest rates for specified Judges' Retirement System and Judges' Retirement System II service credit purchases made pursuant to Government Code sections 75030.8 and 75506.5.

The proposed CCR subsection 575.1(d) would establish that, except as provided in subsections (e) and (f), for service credit purchases and contribution adjustments subject to CCR section 575.1, the interest applied on the unpaid balance shall be the interest rate (the member interest crediting rate, currently 6% compounded annually) provided in Government Code section 20178 on the effective date of the member's service credit election or contribution adjustment. This interest rate shall apply from the effective date of the service credit election or contribution adjustment through the completion of payments.

The proposed CCR subsection 575.1(e) would establish that, for service credit purchases subject to Government Code section 21052, the interest applied on the unpaid balance shall be the actuarial interest rate (currently 7.75%) used in the calculation of the benefit liability. This interest rate shall apply from the effective date of the service credit election or contribution adjustment through the completion of payments.

The proposed CCR subsection 575.1(f) would establish that for judges' service credit purchases subject to Government Code sections 75030.8 and 75506.5, the interest applied on the unpaid balance shall be the actuarial interest rate (currently 7.75%) used in the calculation of the benefit liability. This interest rate shall apply from the effective date of the service credit election or contribution adjustment through the completion of payments.

An additional paragraph is added to clarify that the interest will accrue as if the applicable rate remained in effect throughout the period of the member's installment payments and until the completion of payments.

Proposed Amendment to CCR Section 575.2

Government Code section 21073.1(a) authorizes CalPERS members who elect to convert from State Second Tier retirement benefits to the State First Tier retirement benefits, pursuant to Government Code section 21073.7, to purchase the past credited service as First Tier service on an installment basis as prescribed by regulations of the Board, but does not specify the interest rate to be applied during the member's period of installment payments. Government Code section 21073.1(b) authorizes the Board to adopt regulations implementing this process and, as stated above, exempts such proposed regulations from review by the Office of Administrative Law.

The interest rate to be charged members during installment payment periods for this conversion of CalPERS service credit from State Second Tier to the State First Tier is also not specified by law or regulation. Historically, the installment interest rate charged by CalPERS for this type of service credit conversion has also been the member interest crediting rate in effect on the effective date of the member's election, which since 1991 has been 6%, compounded annually.

CCR section 575.2 implements, interprets and makes specific Government Code section 21073.1 by authorizing CalPERS members converting from State Second Tier to the State First Tier to purchase the past service as First Tier service, subject to the existing installment payment requirements (a) through (c) which do not make any reference to "interest rate".

The proposed amendment to CCR section 575.2 would establish as CalPERS regulation in proposed subsection (d) that, for State First Tier service credit conversions pursuant to Government Code section 21073.1, the interest applied on the unpaid balance shall be the interest rate (member interest crediting rate, currently 6% compounded annually) provided in Government Code section 20178 in effect on the effective date of the member's election to deposit contributions.

Consistent with the proposed amendment to section 575.1, an additional paragraph is added to clarify that interest will accrue as if the applicable rate remained in effect throughout the period of the member's installment payments and until the completion date of payments.

EFFECT ON SMALL BUSINESS

The proposed regulatory action does not affect small business because it applies only to state, school, and public agency members' participation in the retirement program administered under the Public Employees' Retirement Law, the Judges' Retirement Law, and the Judges' Retirement System II Law.

DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

- A. **MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS:** The proposed regulatory action does not impose a mandate on local agencies or school districts.
- B. **COST OR SAVINGS TO ANY STATE AGENCY:** The proposed regulatory action does not impact costs or savings for any state agency.
- C. **COST TO ANY LOCAL AGENCY OR SCHOOL DISTRICT:** The proposed regulatory action does not impact costs or savings for any local agency or school district, such that costs would qualify for reimbursement under Government Code section 17500, et seq.
- D. **NONDISCRETIONARY COSTS OR SAVINGS IMPOSED ON LOCAL AGENCIES:** The proposed regulatory action does not impose non-discretionary costs or savings on local agencies.
- E. **COSTS OR SAVINGS IN FEDERAL FUNDING TO THE STATE:** The proposed regulatory action does not impact any federal funding to the state.
- F. **ADVERSE ECONOMIC IMPACT:** The proposed regulatory action has no significant, statewide adverse economic impact directly business, including the ability of businesses in California to compete with businesses in other states.
- G. **COST IMPACT ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES:** CalPERS is not aware of any cost impacts that representative private persons or businesses would necessarily incur due to the proposed regulatory action.
- H. **IMPACT ON JOBS AND BUSINESSES WITHIN CALIFORNIA:** The proposed regulatory action will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.
- I. **EFFECT ON HOUSING COSTS:** The proposed regulatory action has no effect.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the above mentioned hearing or during the written comment period.

CONTACT PERSONS

Please direct inquiries concerning the substance of the proposed regulatory action to:

Thomas R. French
Office of Policy and Program Development
California Public Employees' Retirement System
400 Q Street
Sacramento, California 95814
Telephone: (916) 795-3172
Fax: (916) 795-2292
E-mail: tom_french@calpers.ca.gov

Please direct requests concerning processing of this regulatory action to Joe Parilo, Acting CalPERS Regulations Coordinator, at (916) 795-3484 (joe_parilo@calpers.ca.gov), or Barbara Galli, backup CalPERS Regulations Coordinator, at (916) 795-4098 (barbara_galli@calpers.ca.gov).

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The entire rulemaking file is available for public inspection through the Acting Regulations Coordinator at the address shown above. To date the file consists of this notice, the proposed text of the regulation, and the Initial Statement of Reasons (ISR). A copy of the proposed text and the ISR is available at no charge upon telephone or written request to the Acting Regulations Coordinator.

The Final Statement of Reasons can be obtained, once it has been prepared, by written request to Joe Parilo, Acting Regulations Coordinator, at the address shown in Section II.

For immediate access, the regulatory material regarding this action is available at CalPERS On-line at (www.calpers.ca.gov) under:

About CalPERS> Legislation, Regulations and Statutes> Regulatory Actions.

AVAILABILITY OF MODIFICATIONS TO PROPOSED AMENDMENT

The Board may, on its own motion or at the recommendation of any interested person, modify the proposed amendment to the regulation after the public

comment period has closed. It may amend CCR sections 575.1 or 575.2 as modified if the changes are sufficiently related to the original text so the public could have anticipated them.

If the Board modifies its regulatory action in this manner, it will prepare a comparison of the original proposed text and the modifications for an additional public comment period of not less than 15 days prior to the date on which the Board adopts, amends or repeals the resulting regulation. A copy of the comparison text will be mailed to all persons who submitted written comments, who testified or submitted written comments at the public hearing, or asked to be kept informed as to the outcome of this regulatory action.

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended Section 3406(b) of the regulations in Title 3 of the California Code of Regulations pertaining to the Mediterranean Fruit Fly Interior Quarantine as an emergency action that was effective on October 25, 2005. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than February 22, 2006.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department contact no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture may certify that there was compliance with the provisions of Section 11346.1 of the Government Code within 120 days of the emergency regulation.

Notice is also given that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before February 6, 2006.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law obligates the Department of Food and Agriculture to protect the agricultural industry in California and prevent the spread of injurious pests (Food and Agricultural Code, Sections 401 and 403). Existing law also provides that the Secretary may establish, maintain, and enforce such regulations as he deems necessary to prevent the spread of pests to

protect California's agricultural industry (Food and Agricultural Code, Section 5322).

This amendment expanded the existing (85 square miles) quarantine area for Mediterranean fruit fly by approximately 17 square miles to make the total regulated area surrounding the Rancho Cucamonga area of San Bernardino County approximately 102 square miles. The effect of the amendment was to implement the authority for the State to regulate movement of hosts and possible carriers of Mediterranean fruit fly within and from the additional 17 square mile area under quarantine to prevent artificial spread of the fly to noninfested areas in order to protect California's agricultural industry. There is no existing, comparable federal regulation or statute.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that Section 3406 does not impose a mandate on local agencies or school districts, except that an agricultural commissioner of a county under quarantine has a duty to enforce it. No reimbursement is required under Section 17561 of the Government Code because the San Bernardino County Agricultural Commissioner requested that this area become the area under quarantine; therefore, there are no mandated costs associated with the addition of the Rancho Cucamonga area to the regulation.

The Department also has determined that the regulation will involve no costs or savings to any state agency, no nondiscretionary costs or savings to local agencies or school districts, no reimbursable costs or savings to local agencies or school districts under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, and no costs or savings in federal funding to the State.

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will not affect housing costs.

EFFECT ON BUSINESSES

The Department has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The agency is not aware of any cost impacts that a representative business or private person would necessarily incur in reasonable compliance with the proposed actions.

ASSESSMENT

The Department has made an assessment that the proposed amendment to the regulation would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

ALTERNATIVES CONSIDERED

The Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AUTHORITY

The Department amended Section 3406(b) pursuant to the authority vested by Sections 407, 5301, 5302, and 5322 of the Food and Agricultural Code of California.

REFERENCE

The Department amended Section 3406(b) to implement, interpret and make specific Sections 5301, 5302, and 5322, Food and Agricultural Code.

EFFECT ON SMALL BUSINESS

The amendment of this regulation may affect small businesses.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed action, location of the rulemaking file, request for a public hearing, and final statement of reasons may be directed is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room A-316, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail: sbrown@cdfa.ca.gov. In his absence, you may contact Liz Johnson at (916) 654-1017. Questions regarding the substance of the proposed regulations should be directed to Stephen S. Brown.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet website (www.cdfa.ca.gov/cdfa/pendingregs).

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the

proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, the final statement of reasons is available upon request. Requests should be directed to the contact named herein.

If the regulations adopted by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

TITLE 8. PUBLIC EMPLOYMENT RELATIONS BOARD

NOTICE OF PROPOSED RULEMAKING

The Public Employment Relations Board (PERB or Board) proposes to adopt, amend or repeal the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to adopt section 32613, to amend sections 32130, 32135, 32140, 32155, 32190, 32325, 32350, 32400, 32450, 32500, 32602, 32604, 32605, 32607, 32609, 32615, 32620, 32621, 32625, 32630, 32635, 32640, 32644, 32647, 32648, 32649, 32650, 32680, 32690, 32781, 32980, 33020, 40130, 51026, 61000, 61010, 61080, 61105, 61185, 61400, 61450, 61480, 61620, 71026, 81010, 81450, 91010, and 91450, and to repeal sections 32125, 32646, 32900, 32915, 32920, 32925, 32935, 32940, 32950, 60000, 60010, 60020, 60030, 60035, 60040, 60050, and 60070.

PUBLIC HEARING

The Board will hold a public hearing at 10:00 a.m., on February 9, 2006, in Room 103 of its headquarters building, located at 1031 18th Street, Sacramento, California. Room 103 is wheelchair accessible. At the hearing, any person may orally present statements or arguments relevant to the proposed action described in the Informative Digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony at the hearing. Any person wishing to testify at the hearing is requested to notify the Office of the General Counsel as early as possible by calling (916) 322-3198 to

permit the orderly scheduling of witnesses and to permit arrangements for an interpreter to be made if necessary.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comment relevant to the proposed regulatory action to the Board. The written comment period closes at 5:00 p.m. on February 7, 2006. Written comments will also be accepted at the public hearing. Submit written comments to:

Robert Thompson
General Counsel
Public Employment Relations Board
1031 18th Street
Sacramento, CA 95184
FAX: (916) 327-6377
E-mail: RThompson@perb.ca.gov

AUTHORITY AND REFERENCE

Pursuant to Government Code section 3541.3(g), the Board is authorized to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Educational Employment Relations Act (EERA). Pursuant to Government Code sections 3509(a) and 3541.3(g), the Board is authorized to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Meyers-Milias-Brown Act (MMBA). Government Code section 3513(h) authorizes the Board to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Ralph C. Dills Act (Dills Act). Government Code section 3563 authorizes the Board to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Higher Education Employer-Employee Relations Act (HEERA). Pursuant to Public Utilities Code section 99561(f), the Board is authorized to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Los Angeles County Metropolitan Transportation Authority Transit Employer-Employee Relations Act (TEERA). Pursuant to Government Code sections 3541.3(g) and 71639.1(b), the Board is authorized to adopt, amend and repeal rules and regulations to carry out the provisions and

effectuate the purposes and policies of the Trial Court Interpreter Employment and Labor Relations Act (Court Interpreter Act).

General reference for section 32125: Sections 3513(h), 3524, 3541.3(n) and 3563(m), Government Code, and Sections 99561(m) and 99566.3, Public Utilities Code. General reference for section 32130: Sections 3509, 3513(h), 3541.3, 3544.7(b), 3563, 3577(b), 71639.1, and 71825, Government Code, and Sections 99561 and 99564.4(b), Public Utilities Code. General reference for section 32135: Sections 3509, 3513(h), 3541.3(n), 3563(m), 71639.1 and 71825, Government Code, and Section 99561(m), Public Utilities Code. General reference for section 32140: Sections 3509, 3513(h), 3541.3(n), 3563(m), 71639.1 and 71825, Government Code, and Section 99561(m), Public Utilities Code. General reference for section 32155: Sections 3509, 3509.5, 3513, 3520, 3541.3, 3542, 3563, 3564, 71639.1, 71639.4, 71825 and 71825.1, Government Code, and Sections 99561 and 99562, Public Utilities Code. General reference for section 32190: Sections 3509, 3513(h), 3541.3(h), 3563(g), 71639.1 and 71825, Government Code, and Section 99561(g), Public Utilities Code. General reference for section 32325: Sections 3509, 3509.5, 3514.5(c), 3520, 3541.5(c), 3542, 3563.3, 3564, 71639.1, 71639.4, 71825 and 71825.1, Government Code, Section 99561(f), Public Utilities Code, and *Firefighters Union, Local 1186 v. City of Vallejo* (1974) 12 Cal.3d 608. General reference for section 32350: Sections 3509, 3513(h), 3541.3(k), (n), 3563(j), (m), 71639.1 and 71825, Government Code, and Section 99561(j), (m), Public Utilities Code. General reference for section 32400: Sections 3509, 3509.5, 3520, 3542, 3564, 71639.4 and 71825.1, Government Code, and Section 99562, Public Utilities Code. General reference for section 32450: Sections 3509, 3513(h), 3541.3(j), (n), 3563(i), 71639.1 and 71825, Government Code, and Section 99561(i), Public Utilities Code. General reference for section 32500: Sections 3509, 3509.5, 3520, 3542, 3564, 71639.4 and 71825.1, Government Code, and Section 99562, Public Utilities Code. General reference for section 32602: Sections 3502.5, 3509, 3513(h), 3514.5, 3515.7, 3523, 3524, 3541.3(n), 3541.5, 3546.5, 3547, 3547.5, 3563(m), 3563.2, 3584, 3587, 3595, 71632.5, 71636, 71636.3, 71637.1, 71639.1, 71814, 71823 and 71825, Government Code, and Sections 99561(h), 99561.2, 99566.3, and 99569, Public Utilities Code. General reference for section 32604: Sections 3502, 3502.1, 3502.5, 3505, 3505.2, 3506, 3507 and 3509, Government Code, and *Firefighters Union, Local 1186 v. City of Vallejo* (1974) 12 Cal.3d 608. General reference for section 32605: Sections 3502.5, 3509, 3513(h), 3514.5, 3515.7, 3523, 3541.3(i), (n), 3541.5, 3546.5, 3547, 3547.5, 3563(h),

(m), 3563.2, 3584, 3587, 3595, 71632.5, 71636, 71636.3, 71637.1, 71639.1, 71814, 71823 and 71825, Government Code, and Sections 99561(h), 99561.2, 99566.3, and 99569, Public Utilities Code. General reference for section 32607: Sections 71632.5, 71636, 71636.3, 71637.1, 71639.1 and 71639.3, Government Code. General reference for section 32609: Sections 71814, 71823 and 71825, Government Code. General reference for section 32613: Sections 3509, 3513, 3514.5, 3541.3, 3541.5, 3563, 3563.2, 71639.1 and 71825, Government Code, and Sections 99561 and 99561.2, Public Utilities Code. General reference for section 32615: Sections 3502.5, 3509, 3513(h), 3514.5, 3515.7, 3519, 3519.5, 3523, 3541.3(n), 3541.5, 3543.5, 3543.6, 3546.5, 3547, 3547.5, 3563(m), 3563.2, 3571, 3571.1, 3571.3, 3584, 3587, 3595, 71632.5, 71639.1, 71814, and 71825, Government Code, and Sections 99561(h), 99561.2, 99563.7, and 99563.8, 99566.3, and 99569, Public Utilities Code. General reference for section 32620: Sections 3509, 3513(h), 3514.5, 3519, 3519.5, 3541.3(i), 3541.5, 3543.5, 3543.6, 3563(h), 3563.2, 3571, 3571.1, 3571.3, 71639.1 and 71825, Government Code; Sections 99561(h), 99561.2, 99563.7 and 99563.8, Public Utilities Code; *Firefighters Union, Local 1186 v. City of Vallejo* (1974) 12 Cal.3d 608, and *Coachella Valley Mosquito and Vector Control District v. Public Employment Relations Board* (2005) 35 Cal.4th 1072 [29 Cal.Rptr.3d 234]. General reference for section 32621: Sections 3502.5, 3509, 3513(h), 3514.5, 3515.7, 3519, 3519.5, 3523, 3541.3(n), 3541.5, 3543.5, 3543.6, 3546.5, 3547, 3547.5, 3563(m), 3563.2, 3571, 3571.1, 3571.3, 3584, 3587, 3595, 71632.5, 71636, 71636.3, 71637.1, 71639.1, 71814, 71823, and 71825, Government Code, and Sections 99561(h), 99561.2, 99563.7, 99563.8, 99566.3, and 99569, Public Utilities Code. General reference for section 32625: Sections 3502.5, 3509, 3513, 3514.5, 3515.7, 3519, 3519.5, 3523, 3541.3(n), 3541.5, 3543.5, 3543.6, 3546.5, 3547, 3547.5, 3563(m), 3563.2, 3571, 3571.1, 3571.3, 3584, 3587, 3595, 71632.5, 71639.1, 71814, and 71825, Government Code, and Sections 99561(h), 99561.2, 99563.7, 99563.8, 99566.3, and 99569, Public Utilities Code. General reference for section 32630: Sections 3502.5, 3509, 3513(h), 3514.5, 3515.7, 3519, 3519.5, 3523, 3541.3(i), (n), 3541.5, 3543.5, 3543.6, 3546.5, 3547, 3547.5, 3563(h), (m), 3563.2, 3571, 3571.1, 3571.3, 3584, 3587, 3595, 71632.5, 71639.1, 71814, and 71825, Government Code, and Sections 99561(h), 99561.2, 99563.7, 99563.8, 99566.3, and 99569, Public Utilities Code. General reference for section 32635: Sections 3502.5, 3509, 3513(h), 3514.5, 3515.7, 3519, 3519.5, 3523, 3541.3(i), (n), 3541.5, 3543.5, 3543.6, 3546.5, 3547, 3547.5, 3563(h), (m), 3563.2, 3571, 3571.1, 3571.3, 3584, 3587, 3595,

71632.5, 71639.1, 71814, and 71825, Government Code, and Sections 99561(h), 99561.2, 99563.7, 99563.8, 99566.3, and 99569, Public Utilities Code. General reference for section 32640: Sections 3502.5, 3509, 3513(h), 3514.5, 3515.7, 3519, 3519.5, 3523, 3541.3(i), (n), 3541.5, 3543.5, 3543.6, 3546.5, 3547, 3547.5, 3563(h), (m), 3563.2, 3571, 3571.1, 3571.3, 3584, 3587, 3595, 71632.5, 71639.1, 71814, and 71825, Government Code, and Sections 99561(h), 99561.2, 99563.7, 99563.8, 99566.3, and 99569, Public Utilities Code. General reference for section 32644: Sections 3502.5, 3509, 3513(h), 3514.5, 3515.7, 3519, 3519.5, 3523, 3541.3(i), (n), 3541.5, 3543.5, 3543.6, 3546.5, 3547, 3547.5, 3563(h), (m), 3563.2, 3571, 3571.1, 3571.3, 3584, 3587, 3595, 71632.5, 71639.1, 71814, and 71825, Government Code, and Sections 99561(h), 99561.2, 99563.7, 99563.8, 99566.3, and 99569, Public Utilities Code. General reference for section 32646: Sections 3509, 3514.5, 3519, 3519.5, 3541.5, 3543.5, 3543.6, 3563.2, 3571, 3571.1, 3571.3, 71639.1 and 71825, Government Code, and Sections 99561(h), 99561.2, 99563.7 and 99563.8, Public Utilities Code. General reference for section 32647: Sections 3502.5, 3509, 3513(h), 3514.5, 3515.7, 3519, 3519.5, 3523, 3541.3(i), (n), 3541.5, 3543.5, 3543.6, 3546.5, 3547, 3547.5, 3563(h), (m), 3563.2, 3571, 3571.1, 3571.3, 3584, 3587, 3595, 71632.5, 71639.1, 71814, and 71825, Government Code, and Sections 99561(h), 99561.2, 99563.7, 99563.8, 99566.3, and 99569, Public Utilities Code. General reference for section 32648: Sections 3502.5, 3509, 3513(h), 3514.5, 3515.7, 3519, 3519.5, 3523, 3541.3(i), (n), 3541.5, 3543.5, 3543.6, 3546.5, 3547, 3547.5, 3563(h), (m), 3563.2, 3571, 3571.1, 3571.3, 3584, 3587, 3595, 71632.5, 71639.1, 71814, and 71825, Government Code, and Sections 99561(h), 99561.2, 99563.7, 99563.8, 99566.3, and 99569, Public Utilities Code. General reference for section 32649: Sections 3502.5, 3509, 3513(h), 3514.5, 3515.7, 3519, 3519.5, 3523, 3541.3(i), (n), 3541.5, 3543.5, 3543.6, 3546.5, 3547, 3547.5, 3563(h), (m), 3563.2, 3571, 3571.1, 3571.3, 3584, 3587, 3595, 71632.5, 71639.1, 71814, and 71825, Government Code, and Sections 99561(h), 99561.2, 99563.7, 99563.8, 99566.3, and 99569, Public Utilities Code. General reference for section 32650: Sections 3502.5, 3509, 3513(h), 3514.5, 3515.7, 3519, 3519.5, 3523, 3541.3(i), (n), 3541.5, 3543.5, 3543.6, 3546.5, 3547, 3547.5, 3563(h), (m), 3563.2, 3571, 3571.1, 3571.3, 3584, 3587, 3595, 71632.5, 71639.1, 71814, and 71825, Government Code, and Sections 99561(h), 99561.2, 99563.7, 99563.8, 99566.3, and 99569, Public Utilities Code. General reference for section 32680: Sections 3502.5, 3509, 3513(h), 3514.5, 3515.7, 3519, 3519.5, 3523, 3541.3(i), (n), 3541.5, 3543.5, 3543.6, 3546.5, 3547, 3547.5, 3563(h), (m),

3563.2, 3571, 3571.1, 3571.3, 3584, 3587, 3595, 71632.5, 71639.1, 71814, and 71825, Government Code, and Sections 99561(h), 99561.2, 99563.7, 99563.8, 99566.3, and 99569, Public Utilities Code. General reference for section 32690: Sections 3502.5, 3509, 3513(h), 3514.5, 3515.7, 3519, 3519.5, 3523, 3541.3(i), (n), 3541.5, 3543.5, 3543.6, 3546.5, 3547, 3547.5, 3563(h), (m), 3563.2, 3571, 3571.1, 3571.3, 3584, 3587, 3595, 71632.5, 71639.1, 71814, and 71825, Government Code, and Sections 99561(h), 99561.2, 99563.7, 99563.8, 99566.3, and 99569, Public Utilities Code. General reference for section 32781: 3513(h), 3524, 3541.3(a) and (e) and 3563(a), Government Code, and Section 99561(a), (e), Public Utilities Code. General reference for section 32900: Sections 3541.3(h), 3547, 3547.5, 3563(g) and 3595, Government Code. General reference for section 32910: 3523, 3541.3(h), 3547, 3547.5, 3563(g) and 3595, Government Code, and Section 99569, Public Utilities Code. General reference for section 32915: Sections 3523, 3541.3(h), 3547, 3563(g) and 3595, Government Code, and Section 99569, Public Utilities Code. General reference for section 32920: Sections 3523, 3541.3(h), 3547, 3547.5, 3563(g) and 3595, Government Code, and Sections 99561(g) and 99569, Public Utilities Code. General reference for section 32925: Sections 3523, 3541.3(h), 3547, 3547.5, 3563(g) and 3595, Government Code, and Section 99569, Public Utilities Code. General reference for section 32935: Sections 3523, 3541.3, 3547, 3563(g) and 3595, Government Code, and Sections 99561(g) and 99569, Public Utilities Code. General reference for section 32940: Sections 3523, 3541.3, 3547, 3547.5, 3563(g) and 3595, Government Code, and Section 99569, Public Utilities Code. General reference for section 32950: 3523, 3541.3(h), 3547, 3547.5, 3563(g) and 3595, Government Code, and Section 99569, Public Utilities Code. General reference for section 32980: Sections 3509, 3509.5, 3514.5(c), 3520, 3541.5(c), 3542, 3563.3, 3564, 71639.1, 71639.4, 71825 and 71825.1, Government Code, and Sections 99561.3 and 99562, Public Utilities Code, and *Firefighters Union, Local 1186 v. City of Vallejo* (1974) 12 Cal.3d 608. General reference for section 33020: Sections 3544.1(c) and 3544.7(b)(1), Government Code. General reference for section 40130: Sections 3520.5 and 3541.3(c), (l), Government Code. General reference for section 51026: Sections 3574(c) and 3577(b)(1), Government Code. General reference for section 60000: Sections 3502.5, 3507, 3507.1, 3507.3, 3507.5, 3508, 3509 and 3541.3, Government Code. General reference for section 60010: Sections 3502.5, 3507, 3507.1, 3507.3, 3507.5, 3508, 3509 and 3541.3, Government Code. General reference for section 60020: Sections 3502.5, 3507, 3507.1, 3507.3, 3507.5, 3508, 3509 and 3541.3, Government Code.

General reference for section 60030: Sections 3502.5, 3507, 3507.1, 3507.3, 3507.5, 3508, 3509 and 3541.3, Government Code. General reference for section 60035: Sections 3502.5, 3507, 3507.1, 3507.3, 3507.5, 3508, 3509 and 3541.3, Government Code. General reference for section 60040: Sections 3502.5, 3507, 3507.1, 3507.3, 3507.5, 3508, 3509 and 3541.3, Government Code. General reference for section 60050: Sections 3502.5, 3507, 3507.1, 3507.3, 3507.5, 3508, 3509 and 3541.3, Government Code. General reference for section 60070: Sections 3502.5, 3507, 3507.1, 3507.3, 3507.5, 3508, 3509 and 3541.3, Government Code. General reference for section 61000: Sections 3502.5, 3507, 3507.1, 3507.3, 3507.5, 3508, 3509 and 3541.3, Government Code, and Sections 105140, 105152 and 105153, Public Utilities Code. General reference for section 61010: Sections 3507, 3507.1, 3509 and 3541.3, Government Code. General reference for section 61080: Sections 3502.5, 3507, 3507.1, 3507.3, 3507.5, 3508, 3509 and 3541.3, Government Code. General reference for section 61105: Sections 3502.5, 3507, 3507.1, 3509 and 3541.3, Government Code. General reference for section 61185: Sections 3502.5, 3507, 3507.1, 3509 and 3541.3, Government Code. General reference for section 61400: Sections 3507, 3507.1, 3509 and 3541.3(a), (c), (e) and (l), Government Code. General reference for section 61450: Sections 3507, 3507.1, 3507.3, 3507.5, 3508, 3509 and 3541.3(a) and (e), Government Code. General reference for section 61480: Sections 3507, 3507.1, 3507.3, 3507.5, 3508, 3509 and 3541.3(a) and (e), Government Code. General reference for section 61620: Sections 3502.5(d), 3507, 3509 and 3541.3(c), Government Code. General reference for section 71026: Sections 99564.1(c) and 99564.4(b)(1), Public Utilities Code. General reference for section 81010: Sections 3541.3, 71636, 71636.3, 71637, 71637.1 and 71639.1, Government Code. General reference for section 81450: Sections 3541.3, 71636, 71636.3, 71637, 71637.1 and 71639.1, Government Code. General reference for section 91010: Sections 3541.3, 71823 and 71825, Government Code. General reference for section 91450: Sections 3541.3, 71823 and 71825, Government Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The regulatory changes proposed fall into several subject categories described below. Some regulation sections are included in more than one category.

MMBA Petition for Board Review

Sections 60000 through 60070 (Chapter 5, Subchapter 1) currently provide for a procedure whereby a party to a determination by a public agency concerning an election, unit determination or other

representation matter can request Board review of the determination. This process has proven to be redundant and unnecessary. There have only been a few petitions filed and frequently the party also files an unfair practice charge based on the same conduct. When regulations were adopted for the Trial Court Act and Court Interpreter Act, this process was not included for those jurisdictions. The relevant regulatory changes involve repeal of sections 60000, 60010, 60020, 60030, 60035, 60040, 60050 and 60070, and conforming amendments to sections 32500, 61000, 61080, 61105, 61185 and 61400.

Standardizing the filing of alleged violations of the statutes as unfair practice charges and elimination of separate procedures for financial statements, public notice complaints and petitions for board review

Consistent with the proposed deletion of the MMBA Petition for Board Review process, the regulatory changes being considered under this category envision one process—the unfair practice charge process set forth at section 32602 et seq.—for all alleged violations of the statutes administered by PERB, and the elimination of all other processes that are presently used only for certain types of alleged violations. In addition to the MMBA Petition for Board Review process, the Board’s current regulations provide for separate processes regarding alleged violations of public notice requirements and financial reporting requirements. The proposed changes would establish a more uniform process. The relevant regulatory changes involve repeal of sections 32125, 32900, 32910, 32915, 32920, 32925, 32935, 32940, and 32950, and amendments to sections 32350, 32602 and 32615. In addition, the reference citations are amended for sections 32604, 32605, 32607, 32609, 32621, 32625, 32630, 32635, 32640, 32644, 32647, 32648, 32649, 32650, 32680, and 32690, consistent with the revised scope of application of these sections.

Applicability of PERB Representation Regulations to MMBA Parties

When PERB first adopted regulations, in 2001, describing representation procedures under the MMBA, the statute was silent on whether such regulations were permissible. Section 61000 provided, at that time, that the regulations were applicable only if adopted by a local agency as its own rules or where, in a particular case, all parties agreed to be bound by them. To our knowledge, no agency has adopted PERB’s rules, and in only a very few instances have parties elected to be bound by PERB rules.

The MMBA was later amended to expressly provide PERB with the authority to adopt representation rules for a local agency that does not have such rules. Section 61000 was amended to conform to the statutory change. However, the language regarding the applicability of our rules where the employer adopted

them or the parties agree to use them was not deleted. The language about voluntary submission to PERB rules is now unnecessary, given the statutory change. Thus, the proposed regulatory changes include an amendment to section 61000 to limit the applicability of the representation regulations to the circumstance expressed in the MMBA. This approach is consistent with the recently-adopted rules under the Trial Court Act (section 81000) and Court Interpreter Act (section 91000).

Adding reference to MMBA Section 3509.5 where applicable

Following the amendment to the MMBA that added Government Code section 3509.5 (Statutes of 2002, Chapter 1137), the Board’s regulations were amended to add appropriate references to the new section. However, sections 32155, 32325, 32400, 32500 and 32980 were not amended previously and the proposed regulatory changes address their omission.

MMBA statute of limitations

Section 32620 provides, in relevant part in subsection (b)(5), that an unfair practice charge shall be dismissed “if it is determined that a complaint may not be issued in light of Government Code Sections 3514.5, 3541.5, 3563.2, 71639.1(c) or 71825(c).” This provision incorporates the six months statute of limitations expressed by the Dills Act, EERA, HEERA, the Trial Court Act, and the Court Interpreter Act, respectively. The regulations do not include a comparable provision with respect to charges filed under the MMBA as the statute itself does not include an express provision establishing a statute of limitations. However, in *Coachella Valley Mosquito and Vector Control District v. Public Employment Relations Board* (2005) 35 Cal.4th 1072 [29 Cal.Rptr.3d 234], the California Supreme Court determined that the statute of limitations under the MMBA, as enforced by PERB, is six months. Thus, amendments to section 32620 are proposed to include appropriate reference to this basis for dismissal of an unfair practice charge filed under the MMBA.

Incorporating reference to PUC section 99561.2

Likewise, a potential basis for dismissal of a charge filed under TEERA is missing in the text of section 32620, even though PUC section 99561.2 was previously included in the Authority and Reference for the section. The proposed rulemaking changes include further amendment to section 32620 to correct the omission.

Unit Modification Petition issues

There are three areas of change proposed regarding unit modification procedures. First is the proposed elimination of a requirement in section 32781 that parties use a PERB form for such filings. Rather, the

regulation would describe what information must be provided to PERB in order to pursue a unit modification.

Second, the Board is proposing to eliminate ambiguity and add clarity regarding when majority proof of support is required for a petition that seeks to add unrepresented positions to a unit. Section 32781(e), and comparable provisions in sections 61450, 81450, and 91450, states that PERB “may require” such support, but the regulations do not provide criteria for when PERB “should” require support. Use of a standard whereby support was required if the positions to be added equal 10 percent or more of the number of employees in the established unit was approved in a Board decision (*State of California, Department of Personnel Administration* (1989) PERB Decision No. 776-S) but never adopted as “the standard” by the Board. The proposed amendments to sections 32781, 61450, 81450, and 91450 would incorporate the 10 percent standard and make it mandatory.

Third, the Board is also proposing to provide for a circumstance where only 30 percent support would be required for a unit modification petition. The fact pattern where this proposed change would be applicable involves a union petitioning to create and become the exclusive representative for a unit of currently unrepresented employees, and an exclusive representative of a separate unit that wishes, instead, to have the employees added to its unit. Under these circumstances, it would be appropriate to have the exclusive representative demonstrate support among the unrepresented employees when the petitioning union has already demonstrated support (normally a majority). The 30 percent level is provided for as it is the most common level of support required for an employee organization to intervene on a request for recognition or qualify for the ballot in a representation election. This proposed change also affects sections 32781, 61450, 81450, and 91450.

Calculation of Last Day to File in Window Period Filings (see Government Code section 6800)

Government Code section 6800 reads: “The time in which any act provided by law is to be done is computed by excluding the first day, and including the last, unless the last day is a holiday, and then it is also excluded.” As presently written, sections 32130(b), 33020, 40130, 51026, 61010, 71026, 81010, and 91010 conflict with this statutory provision, and the proposed changes would delete the language that is in conflict.

On-Line Filing of Unfair Practice Charges

Proposed new section 32613 and conforming changes to section 32135 would provide, as an alternative to filings by mail or facsimile transmission, for the filing of unfair practice charges through an

on-line mechanism accessible on the PERB website. This pilot program is intended to provide parties with a speedy and reliable means to file charges that takes advantage of technological developments and resources.

Clarification of Meaning of Regulation 32135 (Filing)

The current language of this section is ambiguous in that it arguably means that a filing is timely *only if* filed on the last day set for filing. This construction was not intended and the suggested amendments to section 32135(a) and (b) are intended to clarify the meaning of the section.

Redefining Service on parties to include fax transmissions and clarification of proof of service requirements

Current regulations only allow a party to accomplish service by fax when the filing is made by fax. The proposed changes would allow for service by fax of any document that requires service. In addition, a review of section 32140 disclosed aspects that are inaccurate or incomplete, as well as difficult for a party to understand. The language has been revised in this proposal in an attempt to spell out in plainer and simpler language the requirements for service, and to include reference to all forms of acceptable service. The proposed changes include amendments to sections 32135(c) and 32140.

Clarification of 5 day extension rule

The proposed change to section 32130(c) is intended to clarify that the five day extension rule does not apply where PERB serves a document by fax instead of mail. The goal is to both improve PERB’s productivity and efficiency and to clarify the filing deadlines for parties.

Repeal of Section 32646 and clarification of appeal rights after rulings on motions

Section 32646, concerning the opportunity of a party to seek dismissal of a complaint on various grounds and the process for such motions, is unnecessary as it is duplicative of rights and processes that are established in other regulation sections (see 32190 and 32200).

Miscellaneous Grammatical or Technical Corrections

Non-substantive changes are proposed affecting sections 32450, 61480, 61620.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code section 17561: None.

Other non-discretionary cost or savings imposed upon local agencies: None

Costs or savings to state agencies: None

Cost or savings on federal funding to the state: None

Cost impact on private persons or directly affected businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant statewide adverse economic impact on business including the ability of California businesses to compete with businesses in other states: None

Significant effect on housing costs: None

The proposed regulations will not affect small business because they only affect public employers and public employees.

ASSESSMENT

The adoption of the proposed amendments to this regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative considered by it, or otherwise identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the above-mentioned hearing or during the written comment period.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office, at the address below. As of the date this notice is published in the California Regulatory Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations and the Initial Statement of Reasons. Copies of these documents and the Final Statement of Reasons may be obtained by contacting Robert Thompson at the address or phone number listed below.

ADOPTION OF PROPOSED REGULATIONS, AVAILABILITY OF CHANGED OR MODIFIED TEXT AND FINAL STATEMENT OF REASONS

Following the hearing, the Board may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the

modified text—with changes clearly indicated—shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulations. Requests for copies of any modified regulations and/or the final statement of reasons should be sent to the attention of Robert Thompson at the address indicated below. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

INTERNET ACCESS

The Board will maintain copies of this Notice, the Initial Statement of Reasons and the text of the proposed regulations on its web site, found at www.perb.ca.gov, throughout the rulemaking process. The Final Statement of Reasons or, if applicable, notice of a decision not to proceed, will be posted on the web site following the Board's action.

CONTACT PERSONS

Any questions or suggestions regarding the proposed action or the substance of the proposed regulations should be directed to:

Robert Thompson, General Counsel
Public Employment Relations Board
1031 18th Street
Sacramento, CA 95814
(916) 327-8381

or

Les Chisholm, Regional Director
Public Employment Relations Board
1031 18th Street
Sacramento, CA 95814
(916) 327-8383

TITLE 11. DEPARTMENT OF JUSTICE

NOTICE OF PROPOSED AMENDMENTS TO DEPARTMENT OF JUSTICE REGULATIONS PERTAINING TO CHILD ABUSE REPORTS RECORDKEEPING

NOTICE IS HEREBY GIVEN that the Department of Justice (DOJ), pursuant to the authority vested in Penal Code (PC) section 11170(a) in order to administer the requirements in PC sections 11169(a) and 11169(b) is proposing to amend the Department Of Justice regulations pertaining to Child Abuse Reports Recordkeeping in Article 1, Chapter 9 of Division 1, Title 11 of the California Code of Regulations.

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

Existing law (Penal Code Section 11170(a)) requires the DOJ to maintain an index of all reports of child abuse submitted pursuant to Penal Code Section 11169 and to continually update the index. The DOJ currently maintains the Automated Child Abuse System (ACAS) as the index required to carry out provisions of the statute. Existing law also provides that DOJ may adopt rules governing recordkeeping and reporting. In 1988 the DOJ adopted Regulations Pertaining to Child Abuse Reports Recordkeeping, which were added to the California Code of Regulations, as Sections 900 through 911, Article 1, Chapter 9, Division 1, Title 11.

The DOJ proposes to amend sections 900 through 910 of the regulations.

Section 900 is amended to include the wording “and severe neglect.” It is also amended to describe more accurately what the ACAS audit trail is by amending “require that DOJ provide an” to “identify how DOJ tracks inquiries and responses thus creating an.”

Section 901(a) is amended to include the language “when appropriate and/or available.”

Section 901(b) is amended to “used by DOJ to track” from “is the method of tracking.”

Section 901(c) is amended to include all definitions of the ACAS (i.e. Index and Child Abuse Central Index).

Section 901(f) is amended to include the word “underlying” and change “file” to “report.”

Section 901(i) is amended to capitalize the word “Report” and delete “and became.”

Section 901(j) is deleted and included in Section 901(c).

Section 901(k) is renumbered to 901(j). The word “files” is amended to “report.”

Section 901(l) is amended to 901(k).

Section 901(m) is renumbered to (l). The term “or severe neglect” is added.

Section 901(n) is renumbered to (m).

Section 901(o) is renumbered to 901(n). The word “summary” is added.

Section 901(p) is renumbered to 901(o).

Section 901(q) is renumbered to 901(p).

Section 901(r) is deleted.

Section 901(s) is renumbered to 901(q). The sentence “Unfounded reports are not forwarded to DOJ for inclusion in the ACAS.” is added.

Section 901(t) is renumbered to 901(r). The wording “and became” is deleted.

Section 901(u) is renumbered to 901(s)

Section 901(v) is renumbered to 901(t). The term “investigation” is amended to “investigative.”

Section 902 is amended to include the term “severe neglect” and amend the word “file” to “report.”

Section 903(a) is amended to 903(b) and the words “and severe neglect” are added after the words “child abuse.”

Section 903(b) is amended to 903(a), and amended to include the term “and severe neglect.”

Section 903(b) is also amended to modify the name of the reporting form from “Child Abuse Investigation Report” to “Child Abuse Summary Report.” Lower case “form” is amended to uppercase “Form.”

Sections 903(b)(1) and (2) are amended to 903(a)(1) and (2), and lower case “form” is amended to upper case “Form.”

Sections 903(b)(2)(1) through 903(b)(2)(8) are renumbered to 903(a)(2)(A) through 903(a)(2)(H).

Section 903(b)(2)(6) is amended to include “birth date or approximate age, and gender.”

Form SS 8583 is amended to reflect the change in definition of substantiated report from some “credible evidence of abuse” to “more likely than not” that abuse occurred. The title of the form has been amended to “Child Abuse Summary Report.”

Form SS 8583 instruction sheet is amended to reflect a change in definition of substantiated report from some “credible evidence of abuse” to “more likely than not” that abuse occurred. The title of the form has been amended to “Child Abuse Summary Report.” “Past abuse of a child who is an adult at the time of disclosure” has been deleted.

The title for Section 904 is amended from “DOJ Review and Verification of Reports Submitted by CPAs” to “DOJ Review and Verification of Submitted Summary Reports.”

The word “summary” is inserted between “abuse” and “report” to correctly reflect the **new name** of the **SS 8583**.

Section 905(d) is amended by deleting the last sentence from 905(d) and creating 905(e) containing the last sentence from 905(d).

Section 906 is amended to add “and severe neglect” after “child abuse.”

Section 907(b) is amended to include pre-employment background investigations for peace officers. The word “purposes” is deleted.

Section 908(a) is deleted and renumbered 908(b).

Section 908(b) is renumbered to 908(a) and several subsections thereof are created.

Section 908 is amended to include the peace officer pre-employment category to procedures for confirmation of ACAS information. Section 908 is also amended to reflect consistency in the confirmation process for non-criminal investigations and citizen inquiries.

The confirmation letter is amended to include language for pre-employment background investiga-

tions for peace officers. The associated questionnaire is also changed to include additional questions to establish compliance with current retention standards and to ensure notification to the suspect.

Section 909 is amended to include the peace officer pre-employment category to the existing categories for notification in response to inquiries from licensing, employment, and certification agencies. This section is also amended to include the language "with the exception of temporary placement of children in emergency situations."

Section 910 is amended to reflect an audit record as opposed to a log.

PUBLIC HEARING DATES, TIME AND PLACE

No public hearing has been scheduled for the proposed regulatory action, however any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, a public hearing pursuant to section 11346.8 of the Administrative Procedures Act.

WRITTEN COMMENT PERIOD

Any interested persons, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the contact person listed below. The written comment period closes on February 6, 2006. Only written comments received by that time shall be considered.

CONTACT PERSON

Any requests for or questions regarding the regulations package should be directed to:

Bud Wilford
California Department of Justice
Division of California Justice Information Services
Child Protection Program
P.O. Box 903387
Sacramento, CA 94203-3870
Telephone: (916) 227-3263

Or

Sheri Boatwright
California Department of Justice
Division of California Justice Information Services
Child Protection Program
P.O. Box 903387
Sacramento, CA 94203-3870
Telephone (916) 227-5050

IMPACT STATEMENTS

Cost Impact on Local Agencies and School Districts: The proposed amendments to existing regulations will not create a local mandate, will not have a significant impact on local agencies and school districts, and will not result in reimbursable costs.

Local Child Protective Agencies are already required by Penal Code Sections 11169(a) and 11169(b) to follow the procedures covered by the proposed amendments.

Non-Discretionary Costs or Savings: The proposed amendments to existing regulations will not create any non-discretionary costs and will not generate any savings.

Cost or Savings to State Agencies and Federal Funding to the State: Any state costs will be absorbed by the Child Protection Program within the California Justice Information Services Division of the DOJ.

The proposed regulations will impact the State Department of Social Services, who maintain a computerized version of the standard child abuse reporting form. No other state agencies will be impacted and there will not be any impact on any federal funding programs to the state.

Business Impact: The proposed amendments to existing regulations will have no significant, statewide economic impact directly affecting businesses in California, including the ability of California businesses to compete with businesses in other states.

Impact on Small Businesses, Private Persons, and Housing Costs: The proposed amendments to existing regulations will have no significant economic impact on small businesses and private persons because these regulations affect only those individuals listed in the California Child Abuse Index as a result of meeting reporting requirements identified in Penal Code Section 11169, and will have no impact on housing costs. The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Assessment of Job/Business Creation, Elimination, or Expansion: The adoption of the proposed amendments to existing regulations will not create or eliminate jobs in the State of California nor will it result in the elimination of existing businesses or create or expand businesses in the state.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed amendment to existing regulations during the written comment period.

AUTHORITY

PC section 11170(a) specifies that the DOJ may adopt rules governing Child Abuse recordkeeping and reporting.

REFERENCE

This regulatory action implements, interprets, and makes specific Penal Code section 11169(a) and 11169(b).

AVAILABILITY OF STATEMENT OF REASONS, PROPOSED REGULATIONS AND OTHER INFORMATION

The DOJ has prepared a statement of reasons for the proposed amendments to existing regulations and a listing of the exact regulations being proposed.

Copies of the exact language of the statement of reasons and of the text of the proposed amendments to existing regulations and any other information may be obtained from the DOJ contact person shown in this notice. Copies of the exact language of the statement of reasons and of the text of the proposed amendments to existing regulations may also be obtained through the Attorney General web site at www.ag.ca.gov/childabuse/index.htm.

With the exception of any nonsubstantive technical or grammatical changes, the full text of any amended proposals will be available for 15 days prior to its adoption to all persons who submit written comments during the public comment period, and all persons who request notification.

AVAILABILITY OF CHANGED OR AMENDED TEXT

After the DOJ analyzes all timely and relevant comments received during the comment period, the DOJ will either: adopt the amendments to the existing regulations as described in this notice, or make modifications based on the comments. If the DOJ makes modifications which are sufficiently related to the original text of the proposed amendments to existing regulations, the amended text, with the changes clearly indicated, will be made available to the public for at least 15 days before DOJ adopts the revised amendments to the existing regulations. The DOJ will accept written comments on the amended regulations for 15 days after the date on which they are made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Once the Final Statement of Reasons has been prepared, it will be made available through the contact persons listed above.

TITLE 22. EMPLOYMENT DEVELOPMENT DEPARTMENT

Amendment of Title 22, California Code of Regulations, Sections 926-3, 926-4, and 926-5

TAXABLE VALUE OF MEALS AND LODGING

NOTICE OF PROPOSED RULEMAKING

The Employment Development Department (Department) proposes to amend California Code of Regulations (CCR), title 22, sections 926-3, 926-4, and 926-5, by increasing the taxable value of meals and lodging furnished to employees by employers during calendar year 2006. These increases are due to inflation.

The Department will adopt these amendments after considering all comments, objections, or recommendations regarding the proposed action.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

CCR, title 22, sections 926-3, 926-4, and 926-5, provide the taxable value of meals and lodging furnished to employees by employers. In order to establish the equivalent amount of cash wages paid by employers who pay a portion of their employee's wages in the form of meals or lodging, it is necessary to compute the reasonable cash value of such meals and lodging for unemployment insurance purposes. The Department makes this computation each calendar year to reflect the upward or downward trend in the cost of living during the previous calendar year. This yearly computation ensures an accurate and up-to-date calculation of the taxable values of meals and lodging for purposes of "wages" within the meaning of Unemployment Insurance Code (UIC) section 926.

According to the United States Department of Labor, Bureau of Labor Statistics [<http://data.bls.gov/cgi-bin/srgate>], the average retail food price index for fiscal year 2004–2005 was 197.4, up 460.8 percent from the average of 35.2 for the base year 1968–69. The average residential rent index for the fiscal year 2004–2005, was 240.5. This is 440.5 percent above the average residential rent index of 44.5 for the base year ended June 30, 1973. The Department uses 1968–69 as the base year for food and 1972–1973 as the base year for rent because these are the years used by the Bureau of Labor Statistics.

These regulations are being amended to reflect, in substantially the same ratio, the increases in the retail food price index and residential rent index which occurred during the fiscal year ended June 30, 2005.

Notwithstanding sections 926-3(a)(2), and 926-4(a)(2), and 926-5(a)(2)(A) of CCR, title 22, which state in part: "For the calendar year 2006 and

thereafter, except as modified herein . . .”, the Department recognizes that the amendments made to these sections will not become effective until the regulations are approved by the Office of Administrative Law.

Section 926-3.

This regulatory action will amend section 926-3, relating to the taxable value of board and lodging. In 2006 and thereafter until modified, the taxable value of three meals per day is raised from \$9.00 to \$9.15. The taxable value of breakfast is raised from \$1.95 to \$2.00. The taxable value of lunch is raised from \$2.75 to \$2.80. The taxable value of dinner is raised from \$4.30 to \$4.35. The taxable value of an unidentified meal is raised from \$3.10 to \$3.20. The taxable value of lodging is raised from \$957.00 to \$1,000.00 monthly maximum, and from \$31.05 to \$32.45 weekly minimum.

Section 926-4.

This regulatory action will amend section 926-4, relating to the taxable value of meals and quarters furnished to officers and crewmen aboard vessels. In 2006 and thereafter until modified, the taxable value of daily meals is increased from \$9.00 to \$9.15. The taxable value of quarters is increased from \$4.40 to \$4.60 daily for unlicensed personnel. The taxable value of quarters is increased from \$6.45 to \$6.80 daily for licensed personnel.

Section 926-5.

This regulatory action will amend section 926-5, relating to the taxable value of meals and quarters received by fishermen aboard fishing vessels. In 2006 and thereafter until modified, the taxable value of quarters is increased from \$31.05 to \$32.45 a week, or from \$4.40 to \$4.60 a day for periods of less than a week under specified conditions.

AUTHORITY AND REFERENCE

Authority: Sections 305 and 306, Unemployment Insurance Code.

Reference: Section 926, Unemployment Insurance Code.

FISCAL IMPACT

Anticipated costs or savings in federal funding to the State: None

Anticipated costs or savings to any State Agency: None

Anticipated costs or savings to any local agency or school district: None

Significant statewide adverse economic impact: Approximately 282,144 businesses and small businesses will be affected statewide by these regulations. The types of businesses affected include fisheries, restaurants and eating establishments, apartment com-

plexes, private households, residential care facilities, and home health care. The total statewide cost to businesses and small businesses is anticipated to be \$3.5 million, however, the cost to individual businesses is minimal. The regulation does not impose any new reporting requirements on businesses.

The Department has made an initial determination that the proposed amendments will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states. The Department has determined that the proposed amendments will not affect the creation or elimination of jobs within the State of California; the creation of new businesses or the elimination of existing businesses within the State of California; or the expansion of businesses currently doing business within the State of California.

The costs impact on representative persons or businesses: These proposed amendments will affect only those employees who are furnished meals or lodging by their employers. The Department anticipates that the fiscal impact to employees will be negligible.

Anticipated impact on housing costs: These proposed amendments will have no effect on housing costs.

Anticipated nondiscretionary costs or savings imposed upon local agencies: None

SMALL BUSINESS IMPACT

These proposed amendments will not have a significant impact on small businesses since the changes reflect small inflationary increases in the taxable value of meals and lodging for purposes of wages within the meaning of section 926 of the UIC. Essentially, the proposed amendments will only accelerate the point at which an employee reaches the maximum taxable wage limit for the calendar year.

LOCAL MANDATE DETERMINATION

The Department has determined that these proposed amendments will not impose any new mandates on school districts or other local governmental agencies or any mandates which must be reimbursed by the State pursuant to Part 7 (commencing with section 17500), Division 4 of the Government Code.

CONSIDERATION OF ALTERNATIVES

In accordance with section 11346.5(a)(13) of the Government Code, the Department must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or

would be as effective and less burdensome to affected private persons than the proposed regulatory amendments.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments on the proposed action to Laura Colozzi via U.S. mail, e-mail, or fax (see U.S. mail and e-mail addresses and fax number indicated below). **E-mail comments should include true name and mailing address of the commentor. Written comments submitted via U.S. mail, e-mail, or fax, must be received by the Department no later than February 6, 2006, at 5 p.m.** Please submit any written comments before that time. The Department cannot accept written comments after the close of the public comment period.

CONTACT PERSONS

Inquiries or comments should be directed to:

(Mailing address) Laura Colozzi, Legal Analyst
Employment Development
Department
P. O. Box 826880
Legal Office, MIC 53
Sacramento, CA 94280-0001

(Hand delivery) Laura Colozzi, Legal Analyst
Employment Development
Department
800 Capitol Mall, Room 5020
Legal Office, MIC 53
Sacramento, CA 95814

Telephone No.: (916) 654-7712

Fax No.: (916) 654-9069

E-Mail Address: eddlegal@edd.ca.gov

Note: In the event Laura is unavailable, inquiries should be directed to the following backup contact persons at the same address as noted above:

Name: Penny Ayers, Legal Analyst

Telephone No.: (916) 654-8410

Questions regarding the substance of the proposed regulatory action should be directed to:

Name: Barbara Kaufman, Staff Counsel

Telephone No.: (916) 654-8410

INTERNET WEBSITE ACCESS

The Department has posted on its Internet website <http://www.edd.ca.gov/materials> regarding the proposed regulatory action. Select "Proposed EDD Regulations."

PUBLIC HEARING

No public hearing has been scheduled on the proposed action. However, if any person desires to submit oral comments, the Department will schedule a public hearing upon that person's written request. **Such request must be received no later than 15 days prior to the close of the written comment period which is 5 p.m. on February 6, 2006.** A request for hearing can be made by contacting the persons noted above.

MODIFICATION OF PROPOSED ACTION

If the Department makes any additional changes based on public testimony, those changes (other than nonsubstantial or solely grammatical modifications) will be made available for public comment for at least 15 days before they are adopted. Copies of any additional changes regarding the proposed regulatory action will be mailed to all persons who testified or submitted written comments at the public hearing (if one is scheduled); whose comments were received by the agency during the public comment period; and who requested notification from the agency of the availability of such changes.

FINAL STATEMENT OF REASONS

After the close of the 45-day public comment period, the Department will summarize and respond to all public comments in a written final statement of reasons. To obtain a copy of the final statement of reasons, contact the persons noted above, or access the Department's Internet website at <http://www.edd.ca.gov>.

FURTHER INFORMATION

The Department has prepared and has available for review, upon request, the text of the proposed regulatory amendments discussed in this notice, written in plain English; a statement of reasons setting forth the purpose of the amendments; and the information upon which the Department relied in proposing the amendments. (If you received this notice by mail, a copy of the text of the proposed amendments and the statement of reasons were enclosed.) To obtain a copy, contact the persons noted above, or access the Department's Internet website at <http://www.edd.ca.gov>.

All the information upon which the proposed amendments are based is contained in the rulemaking file, which is available for public review. For inquiries regarding the rulemaking file or the regulations' process, contact the persons noted above.

TITLE 28. DEPARTMENT OF MANAGED HEALTH CARE

ACTION: Notice of Proposed Rulemaking

SUBJECT: Adopting title 28, California Code of Regulations section 1300.67.04 and deleting subsection (f) of section 1300.67.8—Language Assistance Programs, Control No. 2004-0115

PUBLIC PROCEEDINGS

Notice is hereby given that the Director of the Department of Managed Health Care (Director) proposes to adopt regulations under the Knox-Keene Health Care Service Plan Act of 1975 (Act) relating to Language Assistance Programs by adopting title 28, California Code of Regulations section 1300.67.04 and deleting subsection (f) of section 1300.67.8. Before undertaking the action, the Director will conduct written public proceedings, during which time any interested person or such person's duly authorized representative may present statements, arguments, or contentions relevant to the action described in this notice.

PUBLIC HEARING

No public hearing is scheduled. Any interested person, or his or her duly authorized representative, may request in writing, a public hearing pursuant to section 11346.8(a) of the Government Code. The request for hearing must be received in writing by the Department of Managed Care's (Department) contact person designated below no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written statements, arguments or contentions (hereafter referred to as comments) relevant to the proposed regulatory action by the Department. Comments must be received by the Department of Managed Health Care, Office of Legal Services, by 5 p.m. on February 21, 2006, which is hereby designated as the close of the written comment period.

Please address all comments to the Department of Managed Health Care, Office of Legal Services, Attention: Regulations Coordinator. Comments may be transmitted by regular mail, FAX, email or via the Department's website:

Website: <http://wpsso.dmhc.ca.gov/regulations/>

Email: regulations@dmhc.ca.gov

Mail: Department of Managed Health Care
Office of Legal Services
Attn: Regulations Coordinator
980 9th Street, Suite 500
Sacramento, CA 95814

Fax: (916) 322-3968

Please note, if comments are sent via the website, email or fax, there is no need to send the same comments by mail delivery. All comments, including via the website, email, fax or mail, should include the author's name and U.S. Postal Service mailing address in order for the Department to provide copies of any notices for proposed changes in the regulation text on which additional comments may be solicited.

Inquiries concerning the proposed adoption of this regulation may be directed to:

Phoenix Vigil, Regulations Coordinator OR
Department of Managed Health Care
Office of Legal Services
980 9th Street, Suite 500
Sacramento, CA 95814
(916) 445-4078
(916) 322-3968 fax
pvigil@dmhc.ca.gov

OR

Mark Sumner, Staff Counsel
Department of Managed Health Care
Office of Legal Services
980 9th Street, Suite 500
Sacramento, CA 95814
(916) 445-9757
(916) 322-3968 fax
msumner@dmhc.ca.gov

CONTACTS

Please identify the action by using the Department's regulation title and control number, **Language Assistance Programs, Control No. 2004-0115**, in any of the above inquiries.

AVAILABILITY OF DOCUMENTS

All the information upon which the proposed regulation is based is contained in the rulemaking file, which is available for public inspection by contacting the Regulations Coordinator listed above. Please call (916) 322-6727 to make an appointment.

The Notice of Proposed Rulemaking, proposed text of the regulation, and the Initial Statement of Reasons are available via the Department's website at <http://wpsso.dmhc.ca.gov/regulations/>, under the heading "Open Pending Regulations."

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

California Health and Safety code sections 1344 and 1346 vest the Director with the power to administer and enforce the provisions of the Act.

California Health and Safety Code section 1344 authorizes that the Director have the ability to adopt, amend, and rescind such rules, forms, and orders as are necessary to carry out the provisions of this chapter, including rules governing applications and reports, and defining any terms, whether or not used in this chapter, insofar as the definitions are not inconsistent with the provisions of the Act. Furthermore, the Director may waive any requirement of any rule or form in situations where in the Director's discretion such requirement is not necessary in the public interest or for the protection of the public, subscribers, enrollees, or persons or plans subject to this chapter.

California Health and Safety Code sections 1346(a)(3)–(a)(4) vest in the Director the power to administer and enforce the Act, including but not limited to recommending and proposing the enactment of any legislation necessary to protect and promote the interests of plans, subscribers, enrollees, and the public.

Proposed adoption of section 1300.67.04

SB 853 (2004) added Chapter 2.2, section 1367.04 of the Health and Safety Code (section 1367.04) expressly instructing the Department to develop and adopt regulations by January 1, 2006. The statute also contained specific requirements for the content of the regulations, including requirements that the regulations establish the standards and requirements for plans' provision of translation and interpretation services. Accordingly, the regulation establishes standards and requirements related to: assessing the linguistic needs of enrollees; arranging for and providing translation and interpretation services; training plan staff; and monitoring compliance with the regulation.

Note: Authority cited: Sections 1344 and 1367.04, Health and Safety Code. Reference: Sections 1259, 1342, 1363, 1365.5, 1367, 1367.04, 1367.07, 1368, 1368.01, 1370 and 1375.7, Health and Safety Code. Cross Reference: Sections 1300.51(d)(Exhibit K), 1300.68, and 1300.70, Title 28, California Code of Regulations.

Proposed deletion of subsection (f) of section 1300.67.8

The Department has determined that it is necessary to rescind subsection (f) of Rule 1300.67.8. Subsection (f) has been suspended since it was promulgated in November 2003, in response to additional information obtained by the Department regarding unintended consequences that may result from application of

subsection (f), and the identified potential for a more workable approach through the language assistance regulation. The Department has determined that the workable aspects of subsection (f) can be appropriately incorporated into the proposed language assistance program regulation, rendering the existing suspended subsection (f) unnecessary.

Note: Authority cited: Section 1344, Health and Safety Code. Reference: Sections 1367, 1381 and 1385, Health and Safety Code.

AVAILABILITY OF MODIFIED TEXT

The text of any modified regulation, unless the modification is only non-substantial or solely grammatical in nature, will be made available to the public at least 15 days prior to the date the Department adopts the regulations. A request for a copy of any modified regulation(s) should be addressed to Phoenix Vigil, Regulations Coordinator, at (916) 322-6727. The Director will accept comments via the Department's website, mail, fax or email on the modified regulation(s) for 15 days after the date on which they are made available. The Director may thereafter adopt, amend or repeal the foregoing proposal substantially as set forth above without further notice.

AVAILABILITY OF THE FINAL
STATEMENT OF REASONS

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named above.

ALTERNATIVES CONSIDERED

Pursuant to Government Code section 11346.5(a)(13), the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified or brought to its attention, would be more effective in carrying out the purpose for which the above action is proposed, or would be as effective and less burdensome to affected private persons than the proposed actions.

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation during the public comment period.

FISCAL IMPACT STATEMENT

- Mandate on local agencies and school districts: None
- Cost or Savings to any State Agency: None
- Direct or Indirect Costs or Savings in Federal Funding to the State: None
- Cost to Local Agencies and School Districts Required to be Reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code: None

- Costs to private persons or businesses directly affected: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Effect on Housing Costs: None
- Other non-discretionary cost or savings imposed upon local agencies: None

DETERMINATIONS

The Department has determined that the regulations would not impose a mandate on local agencies or school districts, nor are there any costs requiring reimbursement by Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

The Department has determined that the regulations will have no impact on housing costs.

The Department has determined that the regulations do not affect small businesses. Health care service plans are not considered a small business under Government Code section 11342(h)(2).

The Department has determined that the regulations will not significantly affect the creation or elimination of jobs within the State of California.

The Department has determined that the regulations will not significantly affect the creation of new businesses, or the elimination of existing businesses within the State of California.

The Department has determined that the regulations will not significantly affect the expansion of businesses currently doing business within the State of California.

The Department has determined that the regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses currently doing business within the State of California to compete with businesses in other states.

FINDING REGARDING REPORTING REQUIREMENT

Government Code section 11346.3(c) provides as follows: "No administrative regulation adopted on or after January 1, 1993, that requires a report shall apply to businesses, unless the state agency adopting the regulation makes a finding that it is necessary for the health, safety, or welfare of the people of the state that the regulation apply to businesses."

All reporting requirements included in these regulations do apply to businesses because the Department has determined that the regulations are necessary to maintain the health, safety and welfare of the people of the State of California.

AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT AND RULEMAKING FILE

The Department has prepared and has available for public review the Initial Statement of Reasons, text of the proposed regulation and all information upon which the proposed regulation is based (rulemaking file).

This information is available by request to the Department of Managed Health Care, Office of Legal Services, 980 9th Street, Sacramento, CA 95814, Attention: Regulations Coordinator. The Notice of Proposed Rulemaking, proposed text of the regulation, and the Initial Statement of Reasons are also available via the Department's website at <http://wpso.dmhc.ca.gov/regulations/>, under the heading "Open Pending Regulations."

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND GAME

CESA CONSISTENCY DETERMINATION FOR Santa Nella Community Specific Plan San Joaquin Kit Fox HCP Merced County

The Department of Fish and Game (Department) received notice on December 8, 2005 that the Arnaudo Brothers, Wathen-Castanos, and Parkway South, LLC (Permittees) propose to rely on their consultation with the U.S. Fish and Wildlife Service (Service) to carry out projects that may adversely affect species protected by the California Endangered Species Act (CESA). The projects consist of various commercial, residential, and infrastructure development on approximately 180.4 acres of the Santa Nella Community Specific Plan area in Merced County, California. The Project will impact habitat for the state threatened San Joaquin kit fox (*Vulpes macrotis mutica*).

On November 28, 2005, the Service issued Incidental Take Permits to the Permittees (TE016739-0, TE016740-0, and TE115585-0) which authorize incidental take of the federally endangered San Joaquin kit fox. The Incidental Take Permits require the Permittees to implement a Habitat Conservation Plan that the Service approved in September 2005.

Pursuant to California Fish and Game Code Section 2080.1, the Permittees are requesting a determination that Incidental Take Permits TE016739-0, TE016740-0, and TE115585-0, which require the Permittees to fully implement the Habitat Conservation Plan, are consistent with the requirements of CESA. If the Department determines that the Incidental Take Permits are consistent with CESA, the

Permittees will not be required to obtain separate permits under CESA (Fish and Game Code Section 2081(b)) for the proposed projects.

DEPARTMENT OF FISH AND GAME

CESA CONSISTENCY DETERMINATION FOR Otay Mesa Energy Center Project San Diego County

The Department of Fish and Game (Department) received notice on December 9, 2005 that the Otay Mesa Energy Center, LLC (OMEC) proposes to rely on consultations between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act (CESA). This project consists of the construction of a power plant, installation of a wastewater disposal pipeline, installation of a freshwater supply pipeline, installation of a gas pipeline, construction of access roads, and re-conducting of 9.5 miles of transmission line. The project will result in impacts to a total of 8.6 acres of habitat for the state endangered Otay tarplant (*Deinandra conjugens*) in San Diego County.

The U.S. Fish and Wildlife Service, on December 2, 2005, issued to the U.S. Army Corps of Engineers (Corps), a no jeopardy federal biological opinion (1-6-06-F-783) which considers the Federally threatened and State endangered Otay tarplant and authorizes incidental take.

Pursuant to California Fish and Game Code Section 2080.1, OMEC is requesting a determination that biological opinion 1-6-06-F-783 is consistent with CESA. If the Department determines that the federal biological opinion is consistent with CESA, OMEC will not be required to obtain an incidental take permit for the proposed project.

DEPARTMENT OF HEALTH SERVICES

THE DEPARTMENT OF HEALTH SERVICES INTENDS TO SUBMIT A STATE PLAN AMENDMENT TO REMOVE THE ANNUAL REQUIREMENT TO REVIEW THE MEDI-CAL REIMBURSEMENT RATES FOR HOME HEALTH AGENCY SERVICES

The California Department of Health Services (CDHS) is issuing this public notice to provide information regarding the review of Medi-Cal reimbursement rates for Home Health Agency Services. CDHS intends to submit an amendment to California's Medicaid State Plan, to remove the requirement for an annual review of the rates for home health agency services.

REVISION TO HOME HEALTH AGENCY SERVICES ANNUAL REVIEW

Currently, California's Medicaid State Plan requires CDHS to perform an annual review of the Medi-Cal reimbursement rates for Home Health Agency Services. CDHS proposes to delete this language from the State Plan Amendment in Attachment 4.19-B, at page 20a. CDHS inserted the annual review language to comply with a 1994 settlement agreement to ensure that those rates complied with 42 United States Code section 1396a(a)(30)(a).

Recently, the Ninth Circuit Court of Appeals held that 42 United State Code section 1396a (a)(30)(a) does not provide a privately enforceable right of action to either Medicaid recipients or providers to challenge the adequacy of Medicaid rates paid to providers for services rendered under the Medicaid program. Accordingly, the legal basis for the settlement no longer exists and the requirement to review rates annually becomes superfluous. Moreover, there is no requirement in federal law compelling the State to conduct an annual review of rates in any other program.

PUBLIC REVIEW

Copies of the proposed changes are available for public review at local county welfare offices throughout the state. Any person may submit written comments to or request copies of the proposed changes from:

Karen Hobson, Chief
Long-Term Care Reimbursement Unit
Department of Health Services
P.O. Box 997417
Mail Stop 4612
Sacramento, CA 95899-7417

DEPARTMENT OF HEALTH SERVICES

THE DEPARTMENT OF HEALTH SERVICES WILL IMPLEMENT THE STATUTORILY REQUIRED FIVE PERCENT PAYMENT REDUCTION TO MEDI-CAL PROGRAMS

This notice is to provide information of public interest with respect to reimbursement changes in some Medi-Cal programs. It is the intent of the Department of Health Services (DHS) to implement a five percent payment reduction to be effective January 1, 2006.

CHANGES TO PAYMENTS EFFECTIVE JANUARY 1, 2006

Pursuant to Section 447.205 of Title 42 of the Code of Federal Regulations, DHS is required to issue a notice before the effective date for payment adjustments to Medi-Cal and other state health programs.

Effective for dates of service on or after January 1, 2006, Medi-Cal will reduce payments by five (5) percent. These reductions are in accordance with Welfare and Institutions Code section 14105.19, as amended by Assembly Bill 1735 (Statutes of 2005, chapter 719), and will remain in effect through December 31, 2006.

The following are exempt from the five (5) percent payment reductions:

- Acute hospital inpatient services
- Federally Qualified Health Center (FQHC) services
- Rural Health Clinic (RHC) services
- Indian Health services (IHS)
- Outpatient services billed by a hospital
- Payments to Long Term Care facilities, including but not limited to, freestanding nursing facilities, distinct-part nursing facilities, intermediate care facilities for developmentally disabled individuals, subacute care units of skilled nursing facilities, rural swing beds, ventilator weaning services, and special treatment program services
- Adult Day Health Care (ADHC) services
- Hospice services
- Clinical laboratory or laboratory services as defined in Section 51137.2 of Title 22 of the California Code of Regulations (CCR)
- Expanded Access to Primary Care (EAPC) services
- Children's Treatment Program (CTP) services
- Local Educational Agency (LEA) services
- Department of Mental Health specialty mental health services
- Durable Medical Equipment (DME)
- Developmentally Disabled Home and Community-Based Services (HCBS) Waiver services
- California Children's Services (CCS) Program (both Medi-Cal and non Medi-Cal)
- Genetically Handicapped Persons Program (GHPP) (both Medi-Cal and non Medi-Cal)
- Child Health and Disability Prevention (CHDP) Program (both Medi-Cal and non Medi-Cal)
- Multipurpose Senior Services Program (MSSP)
- Breast and Cervical Cancer Early Detection Program (BCCEDP)
- Breast Cancer Control Program
- Legend and non-legend drugs

Because the five (5) percent reduction was previously implemented for payments to managed care plans, the reductions described in this bulletin do not apply to managed care plans.

Except for the exemptions listed above, the payment reductions will apply to services rendered by any provider authorized to bill Medi-Cal for these services.

PUBLIC REVIEW AND COMMENTS

A copy of the California statute that prescribes these reductions (Welfare and Institutions Code, Section 14105.19) is available for public review at local county welfare offices throughout the State. In addition, a copy of the statute may be requested and comments sent in writing to Kathleen Y. Menda, Chief, Professional Provider Unit, Department of Health Services, MS 4612, P.O. Box 942732, Sacramento, CA 94234-7320.

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

Announcement of the Publication of child-specific Reference Dose (chRD) for cadmium, chlordane, heptachlor, heptachlor epoxide, methoxychlor, and nickel for use in assessing health risks at existing and proposed School Sites

The Office of Environmental Health Hazard Assessment (OEHHA) of the California Environmental Protection Agency announces the availability of the final Report "Development of Health Criteria for School Site Risk Assessment Pursuant to Health and Safety Code Section 901(g): CHILD-SPECIFIC REFERENCE DOSE (chRD) FOR SCHOOL SITE RISK ASSESSMENT—cadmium, chlordane, heptachlor, heptachlor epoxide, methoxychlor, and nickel." Health and Safety Code (HSC), Section 901(g) requires the Office of Environmental Health Hazard Assessment (OEHHA), in consultation with the appropriate entities within the California Environmental Protection Agency, to identify those chemical contaminants commonly found at school sites and determined by OEHHA to be of greatest concern based on child-specific physiological sensitivities. HSC 901(g) also requires OEHHA to annually evaluate and publish, as appropriate, numerical health guidance values (HGVs) or chRDs for those chemical contaminants until the contaminants identified have been exhausted.

In developing these chRDs, OEHHA has followed the requirements set forth in Health and Safety Code Section 57003 for receiving public input. The first draft document was posted on the OEHHA Website (www.oehha.ca.gov) in June 2003. A public workshop was held in July 2003 to discuss the scientific basis and recommendations in the draft report. After considering public comments and input from an external peer review panel assembled by the Office of the President, University of California, OEHHA revised the document for additional public review in November 2005. The release of the final document is a culmination of this public input process.

If you would like to receive further information on this announcement or have questions, please contact our office at (916) 324-2829 or the address below:

Mr. Leon Surgeon
Integrated Risk Assessment Section
Office of Environmental Health Hazard Assessment
P.O. Box 4010
1001 I Street
Sacramento, California 95812-4010
FAX: (916) 322-9705

DECISION NOT TO PROCEED

AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER ADOPTION OF EMISSION STANDARDS AND TEST PROCEDURES FOR NEW 2007 AND LATER OFF-ROAD LARGE SPARK-IGNITION (LSI) ENGINES AND FLEET REQUIREMENTS FOR USERS OF OFF-ROAD LSI ENGINES

By notice dated April 26, 2005, and published in the May 6, 2005, California Regulatory Notice Register, Register 2005, No. 18-Z, the Air Resources Board (the Board or ARB) announced it would conduct a public hearing to consider the adoption of new emission standards for 2007 and later off-road large spark-ignition (LSI) engines, requirements for fleet users of such equipment, and verification procedures for retrofit control systems.

PLEASE BE ADVISED that the proposed rule-making has been withdrawn. A new rulemaking for LSI will be undertaken in the near future, but a hearing date has yet to be determined. A new notice will be published at least 45 days in advance of the future public hearing. The new rulemaking will include revised fleet requirements and standards and test procedures, the latter based on the federal regulations finalized in July 2005, but likely modified to incorporate ARB elements. Comments submitted in response to the April 26, 2005, notice will not be considered as part of the official future rulemaking; however, these comments are being considered in the development of the future rulemaking.

Pursuant to Government Code section 11347, publication of this Notice of Decision Not to Proceed hereby terminates the rulemaking action originally noticed on May 6, 2005, in the California Regulatory Notice Register.

PRECEDENTIAL DECISION INDEX

DEPARTMENT OF CORPORATIONS

(Government Code § 11425.60)

1. Respondent(s):

L.B. "Lorry" Fredericks; L.B. Fredericks Escrow

Dept. File Number:

ALPHA

OAH File Number:

L-22889

Law(s) Involved:

Financial Code §§ 17416, 17006(a)(4)

Date of Proposed Decision:

March 4, 1981

Date of Decision:

March 9, 1981

Designated In Whole or In Part:

In Whole

Summary:

Cease & Desist order issued under Financial Code § 17416 upheld, despite Financial Code § 17006(a)(4) (real estate broker's **exemption**), *for* operator of "escrow divisions" for contracting brokers.

2. Respondent(s):

National School Reporting Services, Inc.; Neil Rosen

Dept. File Number:

ALPHA

OAH File Number:

L-9611021

Law(s) Involved:

Corporations Code §§ 31402, 31110, 31005

Date of Proposed Decision:

April 15, 1997

Date of Decision:

July 24, 1997

Designated In Whole or In Part:

In Whole

Summary:

Desist & Refrain Order issued under Corporations Code § 31402 upheld; provides precedent re existence of a "marketing plan".

3. Respondent(s):

First Financial, Inc.

Dept. File Number:

607-1163

OAH File Number:

N-1997120014

Law(s) Involved:

Financial Code §§ 22714, 22109, 22701

Date of Proposed Decision:

July 23, 1998

Date of Decision:

July 27, 1998

Designated In Whole or In Part:

In Whole

Summary:

Preponderance of the evidence sufficient to justify revocation, pursuant to Financial Code § 22714(a)(3), of license issued under California Finance Lenders Law where president of licensee had falsely represented, on an application form, that he had never received an administrative order and where he had refused to provide the Department's examiners with access to licensee records.

4. Respondent(s):

Internet & Web Services Corporation; Bryan Hertz; Robert Hertz

Dept. File Number:

ALPHA

OAH File Number:

L-1998060195

Law(s) Involved:

Corporations Code §§ 25532; 25110; 25019

Date of Proposed Decision:

September 16, 1998

Date of Decision:

September 28, 1998

Designated In Whole or In Part:

In Whole

Summary:

Desist & Refrain Order issued under Corporations Code § 25532 upheld based on finding that a "contract for website stores" was an "investment contract" under "traditional" analysis; expanded concept of reliance upon efforts of others.

5. Respondent(s):

FairShare, Inc., aka FairShare Capital Markets; Karl M. Sjogren and John G. Wilson

Dept. File Number:

ALPHA

OAH File Number:

N-1998110288

Law(s) Involved:

Corporations Code §§ 25532; 25110; 25019

Date of Proposed Decision:

January 14, 1999

Date of Decision:

January 26, 1999

Designated In Whole or In Part:

In Whole

Summary:

Desist & Refrain order issued under Corporations Code § 25532 upheld based on finding that "membership interests" in "internet-based" organization were "investment contract" securities under both "traditional" and "risk capital" analyses.

6. Respondent(s):

Stacy Ann Maspero

Dept. File Number:

LIT 02-48

OAH File Number:

L-2002090534

Law(s) Involved:

Financial Code §§ 17423; 17414.1; 17702

Date of Proposed Decision:

December 16, 2002

Date of Decision:

January 13, 2003

Designated In Whole or In Part:

In Whole

Summary:

Barred from any position of employment, management or control of any escrow agent for "willfully" making an untrue statement of material fact on an application filed with the Department of Corporations, and being previously convicted of an offense involving controlled substances.

7. Respondent(s):

American Equity Investment Life Insurance Company; Gloria Marguerite Walton; Michael Paul McIntyre

Dept. File Number:

LIT 05-11

OAH File Number:

N2004080527

Law(s) Involved:

Corporations Code §§ 25009 and 25230

Date of Proposed Decision:

November 12, 2004

Date of Decision:

December 14, 2004

Designated In Whole or In Part:

In Whole

Summary:

Order to desist and refrain from inducing a customer to sell securities in order to purchase an annuity fund and acting as an investment advisor without possessing a certificate from the Corporations Commissioner.

8. Respondent(s):

Nadia Haddad dba Cash It Quick

Dept. File Number:

LIT 05-37

OAH File Number:

L-2005060355

Law(s) Involved:

Financial Code §§ 23005(a) and 23050

Date of Proposed Decision:

July 25, 2005

Date of Decision:

August 25, 2005

Designated In Whole or In Part:

In Whole

Summary:

Desist and refrain from advertising for a deferred deposit originator, referring customers to a deferred deposit originator, and processing payday loan applications on behalf of a deferred deposit originator without first obtaining a license from the Corporations Commissioner.

ERRATA

AIR RESOURCES BOARD

**NOTICE OF PUBLIC HEARING TO CONSIDER
AMENDMENTS TO THE HEAVY-DUTY
VEHICLE SMOKE INSPECTION PROGRAM
(IMPLEMENTATION OF ASSEMBLY BILL 1009,
PAVLEY 2004, CHAPTER 873)**

By notice dated November 29, 2005, and published in the December 9, 2005, California Regulatory Notice Register, Register No. 49-Z, the Air Resources Board (the Board or ARB) inadvertently noticed that it would consider amendments to the Heavy-Duty Vehicle

Inspection Program that would apply to all 1977 and later model year diesel-powered heavy-duty commercial vehicles (HDCV) with a vehicle weight rating (GVWR) greater than 10,000 pounds. (See page 2 of Notice.)

PLEASE BE ADVISED that the proposed amendments are not limited to "1977 and later model year" HDCVs, but apply to "1974 and later year model year" HDCVs.

The complete text of the notice and the Initial Statement of Reasons is available on the ARB Internet site for this rulemaking at <http://www.arb.ca.gov/regact/hdvp2006/hdvp2006.htm>

Any questions regarding these corrections should be directed to, Mr. Tullie Flower, Air Resources Engineer, at (916) 322-5848, or Mr. Donald Chernich, Manager, Heavy-Duty Diesel Inspection/Maintenance Development Section, at (916) 322-7620.

**SUMMARY OF REGULATORY
ACTIONS**

**REGULATIONS FILED WITH
SECRETARY OF STATE**

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA, 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

**AGRICULTURAL LABOR RELATIONS BOARD
Agricultural Employee Relief Fund**

Labor Code § 1161 established an agricultural employee relief fund to provide monetary relief to agricultural employees. The Agricultural Labor Relations Board (ALRB) adopted regulation 20299 (effective 10/03/02) to provide comprehensive procedures for administering the fund. This amendment reduces the eligibility period from five to two years. This change will result in more substantial payouts to eligible employees and free up money allocated for eligible employees who cannot be located. This money is then available for eligible employees who can be found. Additionally this amendment clarifies when unclaimed payouts revert to the fund. The new language indicates that allocation assigned to eligible employees who cannot be located reverts to the fund one year after expiration of eligibility or one year after 100% allocation, whichever occurs first.

Title 8
California Code of Regulations
AMEND: 20299
Filed 12/13/05
Effective 01/12/06
Agency Contact:
Joseph A. Wender, Jr. (916) 653-4054

AIR RESOURCES BOARD
Off-Road Compression-Ignition Tier 4 Regulations
This action updates California's regulations limiting the emissions of new off-road diesel engines to include Tier 4 updates made to the federal regulations applicable to off-road diesels.

Title 13
California Code of Regulations
ADOPT: 2425.1 AMEND: 2420, 2421, 2423, 2425, 2426, 2427, Incorporated Test Procedures
Filed 12/07/05
Effective 01/06/06
Agency Contact: Floyd Vergara (916) 322-2884

**BOARD FOR GEOLOGISTS AND
GEOPHYSICISTS**
Fee Increase—National Examination

This regulatory action raises fees by \$25.00 in 16 CCR 3005 for the national examination required for registration of geologists in California. The national examination fees are based on amounts established by the National Association of State Boards of Geologists (ASBOG) and are authorized for BFGG regulation by Business and Professions Code secs. 7881 and 7887.

Title 16
California Code of Regulations
AMEND: 3005
Filed 12/13/05
Effective 01/12/06
Agency Contact: Paul Sweeney (916) 263-2113

BOARD OF ACCOUNTANCY
Practice Privileges; Disciplinary Guidelines

In this regulatory action, the California Board of Accountancy adopts and amends regulations pertaining to (1) "Practice Privileges" in California for persons with licenses, certificates, or permits to practice public accountancy in other states (under Business and Professions Code sections 5096—5096.11), and (2) the revision of the Board's document entitled "A Manual of Disciplinary Guidelines and Model Disciplinary Orders."

Title 16
California Code of Regulations
ADOPT: 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 35.1
AMEND: 70, 98
Filed 12/12/05
Effective 01/01/06
Agency Contact: Aronna Wong (916) 561-1788

**CALIFORNIA HEALTH FACILITIES FINANCING
AUTHORITY**
Community Clinic Grant Program of 2005

This emergency rulemaking corrects the information required for the grant program. (Previous OAL file # 05-1116-02E)

Title 4
California Code of Regulations
AMEND: 7075, 7082, 7084, 7092, 7093, 7094, 7098
Filed 12/14/05
Effective 12/14/05
Agency Contact: Ray Artinian (916) 653-3841

CALIFORNIA STATE UNIVERSITY
Conflict of Interest

The California State University is amending its conflict of interest code found at title 5, section 43810, California Code of Regulations. The California State University filed the captioned changes to said conflict of interest code on October 4, 2005, absent a copy of the Fair Political Practices Commission (FPPC) approval certification. The filing was pursuant to Education Code section 89030.1(e). The Office of Administrative Law refiled the aforementioned with the FPPC approval certification in the form of a letter dated December 5, 2005, on December 7, 2005.

Title 5
California Code of Regulations
AMEND: 43810
Filed 12/07/05
Effective 12/07/05
Agency Contact:
Deanna L. Thompson (562) 951-4495

COMMISSION ON TEACHER CREDENTIALING
Special Temporary Certificates

This emergency regulatory action is being taken as a result of a stipulated judgment (Judgment) in *Californians for Justice Education Fund v. California Commission on Teacher Credentialing* (San Francisco Superior Court Case No. CPF-05-505517) ordering CTC to adopt emergency regulations for holders of current Individual Internship Certificates (IIC or IICs). The IICs were given to individuals meeting requirements under a CTC program in an effort to comply with the No Child Left Behind Act. The Judgment deems the IIC program and certificates as underground regulations and void for failure to comply with the APA. Under the Judgment, current holders of voided IICs are to be deemed Special Temporary Certificate (STC) holders by adoption of the emergency regulation. The emergency regulation establishes this new STC status to current, voided IIC holders and reiterates for historical purposes the requirements that were satisfied for voided IICs that now apply, without change, to STC holders, pursuant to the Judgment.

Title 5
 California Code of Regulations
 ADOPT: 80033.2
 Filed 12/12/05
 Effective 12/12/05
 Agency Contact:
 Terri H. Fesperman (916) 323-5777

DEPARTMENT OF FOOD AND AGRICULTURE
Oak Mortality Disease Control

This emergency re-adoption will continue the expansion and redefinition of the list of hosts plants and plant parts that are hosts or potential carriers of oak mortality disease first filed on August 12, 2005. The addition of these plants is based upon the actions of the U.S. Secretary of Agriculture, Animal and Plant Health Inspection Service (APHIS) listing these plants and plant parts as hosts or potential carriers.

Title 3
 California Code of Regulations
 AMEND: 3700(c)
 Filed 12/13/05
 Effective 12/13/05
 Agency Contact: Stephen Brown (916) 654-1017

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
Snow Roof Live Loads

The Department of Housing and Community Development is making amendments to section 1338.1 and repealing section 1443.1, title 25, California Code of Regulations. The changes are necessitated by Chapter 325, Stats. 2005. The aforementioned chapter states that . . . [i]t is the intent of the Legislature that the regulations adopted by the Department of Housing and Community Development to implement and interpret the changes enacted in Section 1 of this act be deemed to be editorial changes pursuant to the Administrative Procedure Act. . .”

Title 25
 California Code of Regulations
 AMEND: 1338.1 REPEAL: 1433.1
 Filed 12/07/05
 Effective 01/01/06
 Agency Contact: Brad Harward (916) 324-4907

DEPARTMENT OF INSURANCE
Minimum Reserve Standards

This regulatory action is to make amendments to three sections that include standards for contract and claim reserves which reflect changes in the National Association of Insurance Commissioners (NAIC) Health Insurance Reserves Model Regulation (NAIC Model 10). The adequacy of an insurer’s reserves is assessed yearly to ascertain whether the insurer is able to meet future obligations. These model regulations use more recent data, increase the accuracy of reserve

assessments and are likely to promote greater uniformity of standards among the states.

Title 10
 California Code of Regulations
 AMEND: 2312, 2312.5, 2315
 Filed 12/13/05
 Effective 12/13/05
 Agency Contact: Nancy Hom (415) 538-4144

DEPARTMENT OF MANAGED HEALTH CARE
Financial Solvency Definitions

This Title 1 CCR section 100 “change without regulatory effect” corrects two typographical errors in the Department’s definition of the phrase “in a manner that does not adversely affect the integrity of the contract negotiation process” contained in Health and Safety Code section 1375.4(a)(1).

Title 28
 California Code of Regulations
 AMEND: 1300.75.4
 Filed 12/14/05
 Effective 12/14/05
 Agency Contact:
 Phoenix R. Vigil (916) 445-4078

FRANCHISE TAX BOARD
Election to File A Group Return

This action adopts provisions allowing California corporate taxpayers that are members of the same unitary combined reporting group to designate a “key corporation” responsible for filing a single group return for each affiliated corporation. This action implements the requirements of Revenue and Taxation Code section 25106.5.

Title 18
 California Code of Regulations
 ADOPT: 25106.5-11
 Filed 12/09/05
 Effective 01/08/06
 Agency Contact:
 Colleen Berwick (916) 845-3306

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
Access to the Walking Beam

This is an editorial correction to a typographical error changing the reference to the General Industry Safety Order from Section 5400 to 5004.

Title 8
 California Code of Regulations
 AMEND: 6632(f)
 Filed 12/14/05
 Effective 12/14/05
 Agency Contact: Marley Hart (916) 274-5721

SECRETARY OF STATE

HAVA Statewide Voter Registration Database

The Help America Vote Act of 2002 (HAVA) in 42 U.S.C. 15483 requires each state with voter registration requirements for elections for federal office to implement, through the chief state elections official, a single, uniform, official, centralized interactive computerized statewide voter registration list by January 1, 2004. Pursuant to a waiver pursuant to 42 U.S.C. 15483(d)(1)(B), the statewide voter registration list requirements will become effective for California on January 1, 2006. This emergency regulatory action adopts interim provisions implementing such a list in California beginning January 1, 2006.

Title 2

California Code of Regulations

ADOPT: 20108, 20108.1, 20108.12, 20108.15, 20108.18, 20108.20, 20108.25, 20108.30, 20108.35, 20108.36, 20108.37, 20108.38, 20108.40, 20108.45, 20108.50, 20108.51, 20108.55, 20108.60, 20108.65, 20108.70, 20108.75, 20108.80

Filed 12/12/05

Effective 12/12/05

Agency Contact: Michael Kanotz (916) 653-1690

STATE WATER RESOURCES CONTROL BOARD
Incorporate TMDL for Metals in Ballona Creek

This amendment to the Water Quality Control Plan for the Los Angeles Region (Basin Plan) establishes a Total Maximum Daily Load (TMDL) to reduce metals in Ballona Creek for dry weather (maximum daily flow in the creek less than 40 cubic feet per second) and wet weather (maximum daily flow in the creek equal to or greater than 40 cubic feet per second). The TMDL: (1) sets dry- and wet-weather numeric targets to achieve California Toxics Rule (CTR) numeric water quality criteria for metals; (2) establishes a dry-weather loading capacity for a single critical flow to meet dry-weather numeric targets; (3) establishes a wet-weather loading capacity that varies with flow in order to meet wet-weather numeric targets; and (4) allocates the dry- and wet-weather loading capacities among point and nonpoint sources of metals, with the majority of the capacity allocated to storm water sources.

Title 23

California Code of Regulations

ADOPT: 3939.20

Filed 12/09/05

Effective 12/09/05

Agency Contact: Greg Frantz (916) 341-5553

STATE WATER RESOURCES CONTROL BOARD
Amendment to LA Basin Plan for Metals

This amendment to the Water Quality Control Plan for the Los Angeles Region (Basin Plan) establishes a Total Maximum Daily Load (TMDL) to reduce metals in the Los Angeles River and its Tributaries for dry weather (maximum daily flow in the River less than 500 cubic feet per second) and wet weather (maximum daily flow in the River equal to or greater than 500 cubic feet per second). The TMDL: (1) sets dry- and wet-weather numeric targets to achieve California Toxics Rule (CTR) numeric water quality criteria for metals; (2) establishes a dry-weather loading capacity for a single critical flow to meet the dry-weather numeric target; (3) establishes a wet-weather loading capacity that varies with flow in order to meet wet-weather numeric targets; and (4) allocates the dry- and wet-weather loading capacities among point and nonpoint sources of metals, with the majority of the dry-weather allocation to the three largest publicly owned treatment works (POTWs) and the majority of the wet-weather allocation to storm water sources.

Title 23

California Code of Regulations

ADOPT: 3939.19

Filed 12/09/05

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CCR CHANGES FILED WITH THE
SECRETARY OF STATE
WITHIN JULY 20, 2005 TO
DECEMBER 14, 2005

All regulatory actions filed by OAL during this period are listed below by California Code of Regulation's titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

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